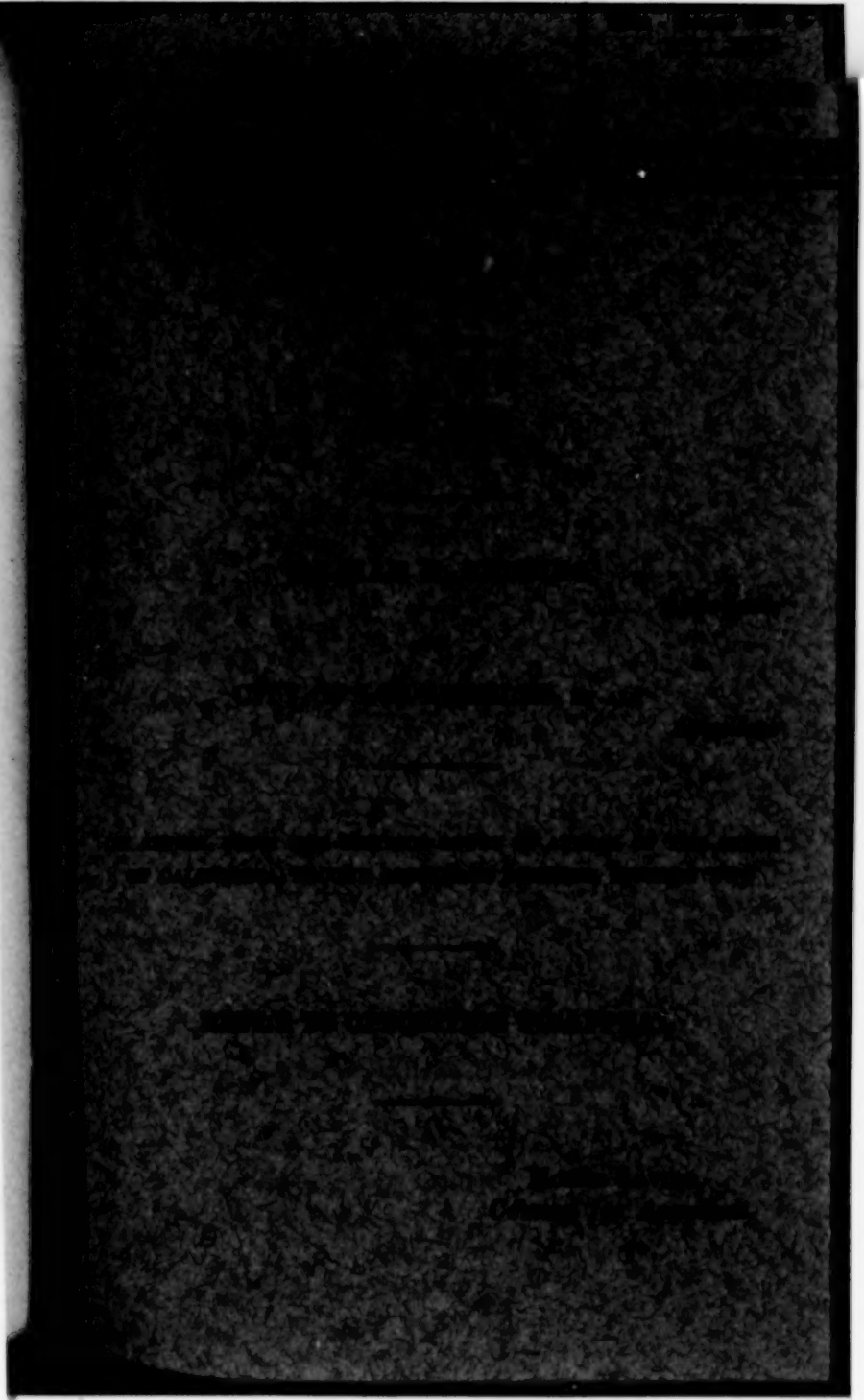

Table of Cases Cited

Testa v. *Katt*, 330 U. S. 386 2
Lovell v. *Griffin*, 303 U. S. 444 2

Table of Authorities Cited

U. S. Constitution, Article VI, sec. 2 2

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1947

No. 754

WILLIAM H. REDDING,

Appellant,

vs.

CITY OF LOS ANGELES, ET AL.,

Appellees

ON APPEAL FROM THE DISTRICT COURT OF APPEAL OF THE STATE OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION TWO

REPLY TO OPPOSITION TO APPEAL

The City of Los Angeles, in its opposition, has misconstrued the law and the facts. The attack in this case is upon the provisions of section 17 of the Charter of the City of Los Angeles, which Charter requires the approval of the State Legislature before it becomes law, and to the State law itself (Chap. 67, Statutes of California, 1941, p. 3405), all of which are construed by the California Court not to be bound by the Constitution and laws of the United States passed pursuant to it.

But the United States Constitution and the laws passed pursuant to it are the supreme law of the land.

U. S. Constitution, Article VI, sec. 2

The laws of the United States with reference to the Merchant Marine and the policy relating thereto, as shown by the Acts of Congress and the debates in Congress with reference thereto, became the policy of the State of California, which was not applied pursuant to the Constitution of the United States and the Acts of Congress. See *Testa* v. *Katt*, 330 U. S. 386.

Whether State courts and State administrative bodies may so construe other Charter provisions and statutes as to decline to enforce Federal laws and Federal policies expressed in those laws for the national defense are questions of great importance, which affect not only the individual petitioner, but all persons similarly situated, and the national policy. A local Charter provision, which has the force of a local law and is approved by State statute, comes within the meaning of State action.

Lovell v. *Griffin*, 303 U. S. 444.

To deny to petitioner relief in this case would be to deny to one who served in our national defense, in an all-out war which required the traveling and navigation of ships in troublesome waters, by men sworn to support and defend the Constitution, the rights and privileges which Congress intended them to have, and would place a local construction by a local Police Board above the powers and policy which Congress declared.

Since the Charter provision as construed and applied in this case is a State law or statute within the meaning and construction which this Court has given to that word, and since the statute has been construed contrary to and in

conflict with the Constitution and Acts of Congress with reference thereto, it is respectfully submitted that the appeal should be entertained by the Supreme Court of the United States.

To construe a city statute, to permit the holding that one who served the United States honorably in time of war, and in the torpedoed sea lanes of the South Pacific, is guilty of "neglect of duty" is to construe the national policy contrary to the specific intent which Congress intended it to have.

Respectfully submitted,

MORRIS LAVINE,
Attorney for Appellant.

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